

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SYNDICATED OFFICE SYSTEMS, INC.,
assignee of SAINT LOUIS
UNIVERSITY HOSPITAL,

Plaintiff,

vs.

THE GUARDIAN LIFE INSURANCE CO.
OF NORTH AMERICA et al.,

Defendants.

Case No. 4:05CV00640 ERW

MEMORANDUM AND ORDER

Currently before the Court are the following motions: (1) Plaintiff's Motion for Default Judgment or, in the Alternative, to Compel Discovery Responses and for Sanctions [doc. #46]; (2) Defendant Guardian Life Insurance Company's Motion for Extension of Time to File Answer [doc. #48]; and (3) Defendant Guardian Life Insurance Company's Motion for Hearing Oral Argument or Testimony [doc. #50].

On February 27, 2006, the Court granted, in part, Plaintiff's Motion for Default Judgment or, in the Alternative, to Compel Discovery Responses and for Sanctions, and required Guardian to provide full and complete answers and responses to Plaintiff's outstanding discovery requests no later than March 10, 2006. At that time, the Court ordered that Plaintiff's Motion would remain pending until it had been fully briefed, at which time the Court would issue a timely ruling.¹

In its Motion, Plaintiff sets forth numerous instances of Guardian's failures to comply with responsive pleading and discovery deadlines. Plaintiff urges the Court to take at least one of the

¹At the time of the February 27, 2006 Order, the three motions currently before the Court were not yet fully briefed. However, the Court agreed with Plaintiff's conclusion that prompt attention to this matter is required due to the upcoming March 20, 2006 mediation. The Court granted Plaintiff's Motion, in part, and expressly stated that it would take under advisement Plaintiff's remaining requests for relief pending Guardian's response to Plaintiff's Motion.

following steps as a sanction for Guardian's undue delay: (1) enter judgment against Guardian pursuant to Federal Rule of Civil Procedure 55; (2) order Guardian to immediately respond to Plaintiff's outstanding discovery requests; (3) sanction Guardian for its delay in responding to the discovery requests by awarding Plaintiff its attorneys' fees incurred in pursuing this Motion; (4) prohibit Guardian from asserting any defenses to Plaintiff's Complaint; and (5) bar the testimony of Guardian's witnesses at trial. The Court has already ordered Guardian to respond to all outstanding discovery requests no later than March 10, 2006.² The Court continues to consider Plaintiff's other requested sanctions, including Plaintiff's request that default judgment be entered against Guardian.

Although Guardian has filed its own Motion for Extension of Time to File Answer, in which it states that it should be permitted to file its Answer out of time due to "excusable neglect," Guardian has not filed any memorandum in opposition to Plaintiff's Motion. Though Guardian states that its failure to file an Answer was due to excusable neglect, Guardian offers no explanation for its failure to comply with discovery requests in a timely manner. Moreover, Guardian has offered no response to Plaintiff's suggestion that various sanctions be imposed against it. Guardian also has filed a Motion for Hearing Oral Argument or Testimony [doc. #50], requesting that the Court hold a hearing on its Motion for Extension of Time to File Answer and Plaintiff's Motion. Because Guardian has failed to directly and fully respond to Plaintiff's Motion to Compel, the Court is unable to determine whether a hearing on the Motion is necessary and, in turn, whether Guardian's request for a hearing should be granted. For all of these reasons, the Court will order Guardian to show cause why Plaintiff's Motion for Default Judgment or, in the Alternative, to Compel Discovery Responses and for Sanctions [doc. #46] should not be immediately granted, in full.

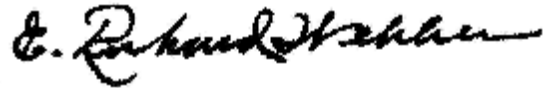
Accordingly,

IT IS HEREBY ORDERED that Defendant Guardian shall **SHOW CAUSE** no later than

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12:00 p.m. on March 10, 2006 why Plaintiff's Motion for Default Judgment or, in the Alternative, to Compel Discovery Responses and for Sanctions [doc. #46] should not be granted, in full. At this time, Plaintiff's Motion shall remain pending.

Dated this 7th day of March, 2006.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written in a cursive style.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE